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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 CHRISTOPHER ALLEN COOPER,

8 Petitioner,

9 v.

10 PATRICK GLEBE,

11 Respondent.

No. C11-6000 RJB/KLS

REPORT AND RECOMMENDATION
Noted For: January 27, 2012

12 On December 6, 2011, Christopher Allen Cooper filed a Motion for Leave to Proceed *In*
13 *Forma Pauperis* (IFP) and a proposed Petition for Writ of Habeas Corpus. ECF No. 1. On
14 December 8, 2011, the Clerk advised Mr. Cooper that his IFP application was deficient in that he
15 had submitted the incorrect form and had failed to provide the Court with a written consent and
16 trust account statement. ECF No. 2. Mr. Cooper was given until January 9, 2012 to provide the
17 Court with this information. *Id.* On December 30, 2011, Mr. Cooper filed a Motion to Dismiss.
18 ECF No. 3. Mr. Cooper states that he is now filing a motion to dismiss with the Pierce County
19 Superior Court in his state court criminal case and asks that this habeas case be dismissed. *Id.*
20

21 Accordingly, the undersigned recommends that this action be dismissed pursuant to Rule
22 41(a)(1) of the Federal Rules of Civil Procedure.

23 **DISCUSSION**

24 Rule 41(a)(1) of the Federal Rules of Civil Procedure provides, in pertinent part:

25 [T]he plaintiff may dismiss an action without a court order by filing (i) a notice of
26 dismissal before the opposing party serves either an answer or a motion for
summary judgment....

1 A complaint has not yet been filed in this action. The undersigned recommends that the
2 Court dismiss this action without prejudice.
3

4 **CONCLUSION**

5 The Court should dismiss this action without prejudice.

6 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil
7 Procedure, the parties shall have fourteen (14) days from service of this Report and
8 Recommendation to file written objections. See also Fed. R.Civ.P. 6. Failure to file objections
9 will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140
10 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to set the
11 matter for consideration on **January 27, 2012**, as noted in the caption.
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14 **DATED** this 6th day of January, 2012.

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17 Karen L. Strombom
18 United States Magistrate Judge
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